IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9918 of 1999

AND

CIVIL APPLICATION No 1584 of 2004

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GANESH GRANITE LIMITED

Versus

STATE OF GUJARAT & ORS.

Appearance:

1. Special Civil Application No. 9918 of 1999

MR HARDIK C RAWAL for the Petitioner

MR KAMAL TRIVEDI, ADDITIONAL ADVOCATE GENERAL

with MR NAGESH SOOD, AGP for Respondents Nos.1,2 & 3

MR PC KAVINA for Respondent No. 4

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 19/04/2004

ORAL JUDGEMENT

The present petition arises from the order dated 19th April, 2001 made by the Commissioner, Geology and Mining, Gandhinagar with respect to a quarry lease over the land Survey No.87 situated at village Pataliya, Taluka Idar, District Sabarkantha.

The petitioner is a company within the meaning of Companies Act, 1956. On 1st March, 1993 the petitioner had applied for a quarry lease in respect of the above referred land Survey No.87 for excavation of granite, a minor mineral. Pursuant to the said application a lease for a period of 10 years over an area of 2.45 Hectares of the said Survey No.87 was approved by the State Government on 3rd January, 1995. Feeling aggrieved, one Behram R.Mehta, the proprietor of the respondent No.4 firm, preferred Special Civil Application No.1007/1995 before this Court which came to be rejected on 12th March, 1995. Feeling aggrieved, the said Shri Behram Mehta preferred Letters Patent Appeal No.73/1995. In the said Appeal the said Shri Behram Mehta and the petitioner compromised to the effect that both the petitioner and the said Shri Behram Mehta be given quarry lease for one half of the said area. The Letters Patent Appeal came to be accordingly disposed of by order dated 2nd September, 1999 (Coram: K.G.Balakrishnan, CJ. as he then was and J.N.Bhatt, J.). The Bench observed that, "the arrangement between the appellant and the 3rd respondent is subject to the orders that may be passed by respondents 1 and 2." It appears that since then by impugned order dated 19th April, 2001 the application for quarry lease made by the petitioner was rejected. By another order dated 19th April, 2001 the quarry lease in respect of the land admeasuring 2-20-23 Hectares of the said land Survey No.87 was granted in favour of the respondent No.4. Feeling aggrieved, the petitioner has preferred the present petition.

Pending the petition, on 1st May, 2001, the order was made as under :

"By way of interim relief, respondents are restrained upto 18th June, 2001 from executing lease deed in respect of subject matter of the petition to any other party."

The said order has continued till the date.

Learned AGP Mr.Sood has submitted that earlier

the matter was considered in accordance with the prevalent rules and accordingly the approval was granted in respect of the quarry lease in favour of the petitioner herein. He has submitted that since then the Government of India has framed Granite Conservation and Development Rules, 1999 which were published in the Official Gazette on 1st June, 1999. Hence, on and from 1st June, 1999 the applications for lease with respect to the granite, a minor mineral, are required to be processed in accordance with the aforesaid Rules. In view of the said rules and the prevalent instructions issued by the State Government the application for quarry lease made by the petitioner was rejected. Whereas the application for quarry lease made by the respondent No.3 was accepted. He has submitted that both the orders are well reasoned and are self-explanatory. The petitioner's application for the said quarry lease could not be granted for the reasons recorded in the order.

As submitted by Mr.Sood, the impugned order dated 19th April, 2001 made by the Commissioner, Geology and Mining is self-explanatory. The petitioner's application has been rejected for the reasons (1) the petitioner did not have the facility of cutting and polishing the granite; and (2) he had not made export of 100% of the granite. Besides, it was found that after expiry of the earlier permit in the year 1996 the petitioner continued to excavate granite for a period of three and a half years. For this illegal act, the Mamlatdar, Idar had to seize the machinery and the excavated materials from the site. The facts stated in the impugned order are not controverted. I am of the view that the impugned order made by the Commissioner, Geology and Mining, rejecting the application of the petitioner for a quarry lease is justified.

In above view of the matter the petition is dismissed with costs. Rule is discharged. Interim relief is vacated.

Civil Application No.1584/2004 stands disposed of.

(Ms. R.M.Doshit, J.)

/sakkaf